



February 20, 2009

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## HOUSE BILL No. 1286

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DIGEST OF HB 1286 (Updated February 18, 2009 5:19 pm - DI 117)

**Citations Affected:** IC 4-32.2; IC 4-36; IC 35-45.

**Synopsis:** Gaming in taverns. Renames the winner take all drawings in taverns as qualified drawings. Specifies the manner in which qualified drawings may be conducted. Amends the definition of "qualified organization" to enable an organization that reorganizes or changes its name to obtain, if certain conditions are met, a charity gaming license under the new name. Allows a festival worker to make a wager on a game authorized by the festival license if the worker does not conduct or help to conduct that game. Provides that identifying information of an operator or a worker submitted to the gaming commission on an application for a license is confidential. Provides that only fraternal and veteran organizations may apply for an annual charity game night license. Specifies that a facility or location may not be used or rented for purposes of conducting an annual charity game night event on more than three calendar days per calendar week. Provides for a new retailer's endorsement renewal fee schedule and provides that the fee be submitted with the renewal form.

**Effective:** Upon passage; July 1, 2009.

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**Van Haaften, Tyler, Bell, Messmer**

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January 13, 2009, read first time and referred to Committee on Public Policy.  
February 19, 2009, amended, reported — Do Pass.

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HB 1286—LS 6801/DI 92+



February 20, 2009

First Regular Session 116th General Assembly (2009)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2008 Regular Session of the General Assembly.

## HOUSE BILL No. 1286

A BILL FOR AN ACT to amend the Indiana Code concerning charitable and type II gaming issues.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 4-32.2-1-1, AS AMENDED BY P.L.95-2008,  
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 2009]: Sec. 1. (a) This article applies only to a qualified  
4 organization.

5 (b) This article applies only to the following approved gambling  
6 events conducted as fundraising activities by qualified organizations:

7 (1) Bingo events, charity game nights, door prize events, raffle  
8 events, festivals, and other gaming events approved by the  
9 commission.

10 (2) The sale of pull tabs, punchboards, and tip boards:

11 (A) at bingo events, charity game nights, door prize events,  
12 raffle events, and festivals conducted by qualified  
13 organizations; or

14 (B) at any time on the premises owned or leased by a qualified  
15 organization and regularly used for the activities of the  
16 qualified organization.

17 This article does not apply to any other sale of pull tabs,

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punchboards, and tip boards.

(c) This article does not apply to a promotion offer subject to IC 24-8.

(d) This article does not apply to the following:

(1) A type II gambling game authorized by IC 4-36.

(2) A ~~raffle or other gambling game~~ **qualified drawing** authorized by IC 4-36-5-1(b).

SECTION 2. IC 4-32.2-2-7.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 7.5. "Bona fide fraternal organization" means a type of bona fide civic organization that:**

**(1) is a branch, lodge, or chapter of a national organization; and**

**(2) exists for the common charitable purposes, brotherhood, or other interests of its members.**

SECTION 3. IC 4-32.2-2-23.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 23.5. "Qualified drawing" means a random drawing to award one (1) or more prizes that is conducted in the manner required by IC 4-36-5-1(c).**

SECTION 4. IC 4-32.2-2-24, AS AMENDED BY P.L.227-2007, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 24. (a) "Qualified organization" ~~means:~~ refers to any of the following:**

**(1) A bona fide religious, educational, senior citizens, veterans, or civic organization operating in Indiana that:**

**(A) operates without profit to the organization's members;**

**(B) is exempt from taxation under Section 501 of the Internal Revenue Code; and**

**(C) satisfies at least one (1) of the following requirements:**

**(i) The organization has been continuously in existence in Indiana for at least five (5) years. ~~or~~**

**(ii) The organization is affiliated with a parent organization that has been in existence in Indiana for at least five (5) years.**

**(iii) The organization has reorganized and is continuing its mission under a new name on file with the Indiana secretary of state and with a new tax identification number after having satisfied the requirements set forth in either item (i) or (ii).**

**(2) A bona fide political organization operating in Indiana that produces exempt function income (as defined in Section 527 of**

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the Internal Revenue Code). ~~or~~

(3) A state educational institution (as defined in ~~IC 20-12-0.5-1~~;  
**IC 21-7-13-32**).

(b) For purposes of IC 4-32.2-4-3, a "qualified organization" includes the following:

- (1) A hospital licensed under IC 16-21.
- (2) A health facility licensed under IC 16-28.
- (3) A psychiatric facility licensed under IC 12-25.
- (4) An organization defined in subsection (a).

(c) For purposes of IC 4-32.2-4-10, a "qualified organization" includes a bona fide business organization.

**(d) Evidence that an organization satisfies subsection (a)(1)(C)(iii) includes:**

- (1) evidence of the organization's continued use of a service mark or trademarked logo associated with the organization's former name;**
- (2) evidence of the continuity of the organization's activities as shown in the federal income tax returns filed for the organization's five (5) most recent taxable years;**
- (3) evidence of the continuity of the organization's activities as shown by the five (5) most recent annual external financial reviews of the organization prepared by a certified public accountant; or**
- (4) any other information considered sufficient by the commission.**

SECTION 5. IC 4-32.2-4-7.5, AS ADDED BY P.L.227-2007, SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 7.5. (a) ~~Subject to~~ **This section applies only to a qualified organization described in** subsection (h). The commission may issue an annual charity game night license to a qualified organization if:

- (1) the provisions of this section are satisfied; and
- (2) the qualified organization:
  - (A) submits an application; and
  - (B) pays a fee set by the commission under IC 4-32.2-6.

(b) The commission may hold a public hearing to obtain input on the proposed issuance of an annual charity game night license to an applicant that has never held an annual charity game night license under this article.

(c) The first time that a qualified organization applies for an annual charity game night license, the qualified organization shall publish notice that the application has been filed by publication at least two (2)

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times, seven (7) days apart, as follows:

(1) In one (1) newspaper in the county where the qualified organization is located.

(2) In one (1) newspaper in the county where the allowable events will be conducted.

(d) The notification required by subsection (c) must contain the following:

(1) The name of the qualified organization and the fact that it has applied for an annual charity game night license.

(2) The location where the charity game night events will be held.

(3) The names of the operator and officers of the qualified organization.

(4) A statement that any person can protest the proposed issuance of the annual charity game night license.

(5) A statement that the commission shall hold a public hearing if ten (10) written and signed protest letters are received by the commission.

(6) The address of the commission where correspondence concerning the application may be sent.

(e) If the commission receives at least ten (10) protest letters, the commission shall hold a public hearing in accordance with IC 5-14-1.5. The commission shall issue a license or deny the application not later than sixty (60) days after the date of the public hearing.

(f) A license issued under this section:

(1) may authorize the qualified organization to conduct charity game night events on more than one (1) occasion during a period of one (1) year;

(2) must state the locations of the permitted charity game night events;

(3) must state the expiration date of the license; and

(4) may be reissued annually upon the submission of an application for reissuance on the form established by the commission and upon the licensee's payment of a fee set by the commission.

(g) Notwithstanding subsection (f)(4), the commission may hold a public hearing for the reissuance of an annual charity game night license if at least one (1) of the following conditions is met:

(1) An applicant has been cited for a violation of law or a rule of the commission.

(2) The commission receives at least ten (10) protest letters concerning the qualified organization's charity game night operation.

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(3) A public hearing is considered necessary by the commission.  
 (h) ~~Notwithstanding IC 4-32.2-2-24, this section applies only to: A qualified organization may apply for an annual charity game night license under this section if the qualified organization is:~~

- (1) a bona fide ~~civic~~ fraternal organization; or
- (2) a bona fide veterans organization;

that has been continuously in existence in Indiana for ten (10) years. ~~A qualified organization that is not described in this subsection may not apply for an annual charity game night license under this section.~~

(i) ~~A facility or location may not be used for purposes of conducting an annual charity game night event on more than three (3) calendar days per calendar week regardless of the number of qualified organizations conducting an annual charity game night event at the facility or location.~~

SECTION 6. IC 4-32.2-4-13, AS AMENDED BY P.L.95-2008, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 13. (a) A bingo license or special bingo license may also authorize a qualified organization to conduct raffle events and door prize drawings and sell pull tabs, punchboards, and tip boards at the bingo event.

(b) A charity game night license may also authorize a qualified organization to:

- (1) conduct raffle events and door prize drawings; and
- (2) sell pull tabs, punchboards, and tip boards;

at the charity game night.

(c) A raffle license or an annual raffle license may also authorize a qualified organization to conduct door prize drawings and sell pull tabs, punchboards, and tip boards at the raffle event.

(d) A door prize license or an annual door prize license may also authorize a qualified organization to conduct a raffle event and to sell pull tabs, punchboards, and tip boards at the door prize event.

(e) A PPT license may also authorize a qualified organization to conduct ~~at any time~~ on the premises described in section 16.5(b) of this chapter ~~a winner take all drawing in which the qualified organization retains no portion of the amounts wagered. The total amount awarded to a patron who participates in a winner take all drawing may not exceed three hundred dollars (\$300).~~ **qualified drawings in the manner required by IC 4-32.2-5-24.**

SECTION 7. IC 4-32.2-5-8, AS AMENDED BY P.L.227-2007, SECTION 33, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 8. (a) ~~If facilities are a facility or location is~~ leased for an allowable event, the rent may not be based in whole or in

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part on the revenue generated from the event.

(b) **Subject to the additional restrictions on the use of a facility or location that are set forth in IC 4-32.2-4-7.5(i), a facility or location** may not be rented for more than three (3) days during a calendar week for an allowable event.

(c) If personal property is leased for an allowable event, the rent may not be based in whole or in part on the revenue generated from the event.

SECTION 8. IC 4-32.2-5-14, AS AMENDED BY P.L.95-2008, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 14. (a) **Except as provided by subsection (c), an operator or a worker may not directly or indirectly participate, other than in a capacity as an operator or a worker, in an allowable event that the operator or worker is conducting.**

(b) A patron at a charity game night may deal the cards in a card game if:

- (1) the card game in which the patron deals the cards is a game of euchre;
- (2) the patron deals the cards in the manner required in the ordinary course of the game of euchre; and
- (3) the euchre game is played under the supervision of the qualified organization conducting the charity game night in accordance with rules adopted by the commission under IC 4-32.2-3-3.

A patron who deals the cards in a euchre game conducted under this subsection is not considered a worker or an operator for purposes of this article.

(c) **This subsection does not apply to the operator of a festival event. A worker assisting a qualified organization in the conduct of a festival event may make a wager on any game of chance authorized by the qualified organization's festival license except for a game of chance that the worker personally conducts or helps conduct during the festival event.**

SECTION 9. IC 4-32.2-5-24 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 24. (a) **A qualified drawing must be conducted in the manner required by this section.**

(b) **A qualified drawing is subject to the following rules and limitations:**

- (1) **The purchase price for a chance to win a prize in a qualified drawing may not exceed five dollars (\$5).**
- (2) **All tickets that a qualified organization sells in a qualified**

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drawing must have been purchased by the qualified organization from a licensed distributor.

(3) The total value of all prizes that may be won in a particular qualified drawing may not exceed three hundred dollars (\$300) for any of the following:

(A) A daily drawing.

(B) A weekly drawing.

(C) A monthly drawing.

(4) A qualified drawing must be conducted in accordance with the following limitations:

(A) Not more than one (1) daily drawing may be conducted each day.

(B) Not more than one (1) weekly drawing may be conducted each week.

(C) Not more than one (1) monthly drawing may be conducted each month.

A weekly or monthly drawing may be conducted on the same day that a daily drawing is conducted.

(5) Except as otherwise provided in this section, a patron must be present to claim a prize awarded in a qualified drawing.

(6) A qualified organization may not profit from conducting a qualified drawing.

(7) All amounts wagered on qualified drawings must be returned to a qualified organization's patrons in the form of prizes.

(8) A qualified organization may not conduct a qualified drawing or any other event in which the winner of the prize is determined, in whole or in part, by a sporting event.

(9) A qualified drawing must conspicuously display the following information concerning each qualified drawing conducted by the qualified drawing:

(A) The price of a ticket.

(B) The time of the drawing.

(C) The description and value of the prizes awarded in the drawing.

(D) The manner in which a prize may be claimed.

(c) A prize may be awarded under subsection (d) to a patron who is not present at the time of the qualified drawing if the patron provides the patron's name, address, and telephone number to the qualified organization before the drawing to enable the qualified organization to award the prize to the patron at a later time. If the winning patron has not provided the information required by this

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subsection to the qualified organization before the drawing, the qualified organization must continue drawing tickets in the qualified drawing until there is a winner who:

- (1) is present to claim the prize; or
- (2) has provided the information required by this subsection to enable the qualified organization to award the prize to the patron under subsection (d).

(d) When the winning patron is not present to claim a prize but has provided the information required by subsection (c) to the qualified organization, the qualified organization shall award the prize in the following manner:

(1) The qualified organization shall immediately notify the winning patron by telephone that the patron's name was drawn in a qualified drawing and that the patron has seventy-two (72) hours after the time of the telephone notification to claim the prize.

(2) The winning patron must appear at the premises of the qualified organization within seventy-two (72) hours after the time of the notification under subdivision (1) to claim the prize in person.

(3) The qualified organization shall verify the identity of the winning patron and award the prize.

(e) If a winning patron fails to claim a prize in the manner required by subsection (d), the qualified organization shall carry the prize over to a later qualified drawing as follows:

(1) An unclaimed prize from a daily drawing must be carried over to the next daily drawing.

(2) An unclaimed prize from a weekly drawing must be carried over to the next weekly drawing.

(3) An unclaimed prize from a monthly drawing must be carried over to the next monthly drawing.

SECTION 10. IC 4-32.2-6-0.5, AS ADDED BY P.L.95-2008, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 0.5. As used in this chapter, "gross revenue" does not include any amount wagered on a ~~winner take all~~ qualified drawing conducted by a qualified organization under IC 4-32.2-4-13(e).

SECTION 11. IC 4-32.2-9-9, AS ADDED BY P.L.91-2006, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 9. (a) Information obtained by the commission during the course of an investigation conducted under this chapter is confidential.

(b) A driver's license number or other identifying information

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1 of an operator or worker that is submitted to the commission on an  
2 application for a license under this article is confidential.

3 SECTION 12. IC 4-36-2-9, AS ADDED BY P.L.95-2008,  
4 SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
5 JULY 1, 2009]: Sec. 9. "Gross receipts" means the total amount of  
6 money exchanged for the purchase of ~~raffle tickets~~, pull tabs,  
7 punchboards, and tip boards by type II gaming patrons. The term does  
8 not include any amount wagered on a ~~winner take all~~ **qualified** drawing  
9 conducted by a retailer under ~~IC 4-36-5-1(b)(2)~~. **IC 4-36-5-1(b)**.

10 SECTION 13. IC 4-36-2-15.5 IS ADDED TO THE INDIANA  
11 CODE AS A **NEW** SECTION TO READ AS FOLLOWS  
12 [EFFECTIVE JULY 1, 2009]: **Sec. 15.5. "Qualified drawing" means**  
13 **a random drawing to award one (1) or more prizes that is**  
14 **conducted in the manner required by IC 4-36-5-1(c).**

15 SECTION 14. IC 4-36-4-5, AS ADDED BY P.L.95-2008,  
16 SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
17 UPON PASSAGE]: Sec. 5. (a) The commission shall charge the  
18 following fees for the issuance of a person's initial annual endorsement  
19 or license under this chapter:

- 20 (1) Two hundred fifty dollars (\$250) for a retailer's endorsement
- 21 to conduct a type II gambling operation in the retailer's tavern.
- 22 (2) One thousand dollars (\$1,000) for a distributor's license.
- 23 (3) One thousand five hundred dollars (\$1,500) for a
- 24 manufacturer's license.

25 (b) The commission shall charge the following fees for the renewal  
26 of a person's annual endorsement or license under this chapter:

- 27 (1) The ~~amount determined under section 6 of this chapter~~
- 28 **following amounts** for a retailer's endorsement:

29 **(A) One hundred dollars (\$100) in the case of a retailer**  
30 **that had adjusted gross revenues of less than twenty-five**  
31 **thousand dollars (\$25,000) in the previous year.**

32 **(B) Two hundred fifty dollars (\$250) in the case of a**  
33 **retailer that had adjusted gross revenues of at least**  
34 **twenty-five thousand dollars (\$25,000) but less than fifty**  
35 **thousand dollars (\$50,000) in the previous year.**

36 **(C) Five hundred dollars (\$500) in the case of a retailer**  
37 **that had adjusted gross revenues of at least fifty thousand**  
38 **dollars (\$50,000) but less than one hundred thousand**  
39 **dollars (\$100,000) in the previous year.**

40 **(D) One thousand dollars (\$1,000) in the case of a retailer**  
41 **that had adjusted gross revenues of at least one hundred**  
42 **thousand dollars (\$100,000) in the previous year.**

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(2) One thousand dollars (\$1,000) for a distributor's license.

(3) One thousand five hundred dollars (\$1,500) for a manufacturer's license.

**(c) A retailer shall report the amount of the retailer's adjusted gross receipts on the form required to renew the retailer's endorsement. The renewal fee required under subsection (b)(1) must be submitted with the renewal form.**

~~(c)~~ (d) The commission shall deposit all fees collected under this chapter into the enforcement and administration fund established under IC 7.1-4-10.

SECTION 15. IC 4-36-4-6, AS ADDED BY P.L.95-2008, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 6. (a) For the purposes of ~~subsection (c)~~, **section 5(b)(1) of this chapter**, a retailer's adjusted gross revenue is an amount equal to the difference between:

(1) the retailer's total gross revenue from the retailer's type II gambling operations in the preceding year; minus

(2) the sum of any amounts deducted under subsection (b) in the preceding year.

(b) To determine the amount of a retailer's adjusted gross revenue from the retailer's type II gambling operations in the preceding year under subsection (a), the retailer shall subtract the following from the retailer's gross receipts:

(1) An amount equal to the total value of the prizes awarded in **type II gambling games** in the preceding year.

(2) The sum of the purchase prices paid for type II gambling games dispensed in the retailer's type II gambling operation in the preceding year.

(3) An amount equal to the amount of license fees paid by the retailer in the preceding year.

~~(c)~~ The license fee that is charged to a retailer that renews the endorsement must be based on the adjusted gross revenue from the retailer's type II gambling operations in the preceding year, according to the following schedule:

Class	Adjusted Gross Revenues		Fee
	At Least	But Less Than	
A	\$ 0	\$ 15,000	\$ 50
B	\$ 15,000	\$ 25,000	\$ 100
C	\$ 25,000	\$ 50,000	\$ 300
D	\$ 50,000	\$ 75,000	\$ 400
E	\$ 75,000	\$ 100,000	\$ 700
F	\$ 100,000	\$ 150,000	\$ 1,000



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1	G	\$ 150,000	\$ 200,000	\$ 1,500
2	H	\$ 200,000	\$ 250,000	\$ 1,800
3	I	\$ 250,000	\$ 300,000	\$ 2,500
4	J	\$ 300,000	\$ 400,000	\$ 3,250
5	K	\$ 400,000	\$ 500,000	\$ 5,000
6	L	\$ 500,000	\$ 750,000	\$ 6,750
7	M	\$ 750,000	\$ 1,000,000	\$ 9,000
8	N	\$ 1,000,000	\$ 1,250,000	\$ 11,000
9	O	\$ 1,250,000	\$ 1,500,000	\$ 13,000
10	P	\$ 1,500,000	\$ 1,750,000	\$ 15,000
11	Q	\$ 1,750,000	\$ 2,000,000	\$ 17,000
12	R	\$ 2,000,000	\$ 2,250,000	\$ 19,000
13	S	\$ 2,250,000	\$ 2,500,000	\$ 21,000
14	T	\$ 2,500,000	\$ 3,000,000	\$ 24,000
15	U	\$ 3,000,000		\$ 26,000

SECTION 16. IC 4-36-5-1, AS ADDED BY P.L.95-2008, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. (a) A retailer may offer the sale of type II gambling games in accordance with this article.

(b) A retailer's endorsement also authorizes a retailer to conduct the following gambling games on the premises of the retailer's tavern:

(1) Raffles in which the retailer retains the proceeds of the raffle drawing;

(2) Winner take all drawings in which the retailer retains no portion of the amounts wagered;

(c) The total amount awarded to:

(1) patrons who participate in a raffle permitted under subsection (b)(1); or

(2) a patron who participates in a winner take all drawing permitted under subsection (b)(2);

may not exceed three hundred dollars (\$300).

(b) A retailer's endorsement also authorizes a retailer to conduct qualified drawings on the premises of the retailer's tavern. A qualified drawing must be conducted in the manner required by this section.

(c) A qualified drawing is subject to the following rules and limitations:

(1) The purchase price for a chance to win a prize in a qualified drawing may not exceed five dollars (\$5).

(2) All tickets that a retailer sells in a qualified drawing must have been purchased by the retailer from a licensed distributor.

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(3) The total value of all prizes that may be won in a particular qualified drawing may not exceed three hundred dollars (\$300) for any of the following:

(A) A daily drawing.

(B) A weekly drawing.

(C) A monthly drawing.

(4) A qualified drawing must be conducted in accordance with the following limitations:

(A) Not more than one (1) daily drawing may be conducted each day.

(B) Not more than one (1) weekly drawing may be conducted each week.

(C) Not more than one (1) monthly drawing may be conducted each month.

A weekly or monthly drawing may be conducted on the same day that a daily drawing is conducted.

(5) Except as otherwise provided in this section, a patron must be present to claim a prize awarded in a qualified drawing.

(6) A retailer may not profit from conducting a qualified drawing.

(7) All amounts wagered on qualified drawings must be returned to a retailer's patrons in the form of prizes.

(8) A retailer may not conduct a qualified drawing or any other event in which the winner of the prize is determined, in whole or in part, by a sporting event.

(9) A retailer must conspicuously display the following information concerning each qualified drawing conducted by the retailer:

(A) The price of a ticket.

(B) The time of the drawing.

(C) The description and value of the prizes awarded in the drawing.

(D) The manner in which a prize may be claimed.

(d) A prize may be awarded under subsection (e) to a patron who is not present at the time of the qualified drawing if the patron provides the patron's name, address, and telephone number to the retailer before the drawing to enable the retailer to award the prize to the patron at a later time. If the winning patron has not provided the information required by this subsection to the retailer before the drawing, the retailer must continue drawing tickets in the qualified drawing until there is a winner who:

(1) is present to claim the prize; or

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(2) has provided the information required by this subsection to enable the retailer to award the prize to the patron under subsection (e).

(e) When the winning patron is not present to claim a prize but has provided the information required by subsection (d) to the retailer, the retailer shall award the prize in the following manner:

(1) The retailer shall immediately notify the winning patron by telephone that the patron's name was drawn in a qualified drawing and that the patron has seventy-two (72) hours from the time of the telephone notification to claim the prize.

(2) The winning patron must appear at the retailer's premises within seventy-two (72) hours to claim the prize in person.

(3) The retailer shall verify the identity of the winning patron and award the prize.

(f) If a winning patron fails to claim a prize in the manner required by subsection (e), the retailer shall carry the prize over to a later qualified drawing as follows:

(1) An unclaimed prize from a daily drawing must be carried over to the next daily drawing.

(2) An unclaimed prize from a weekly drawing must be carried over to the next weekly drawing.

(3) An unclaimed prize from a monthly drawing must be carried over to the next monthly drawing.

SECTION 17. IC 4-36-5-2, AS ADDED BY P.L.95-2008, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. (a) A type II gambling game may be sold under this article only on the premises of the retailer's tavern.

(b) Type II gambling games ~~raffles, and winner take all and~~ **qualified** drawings may not be offered in any part of the retailer's licensed premises in which a minor may be present under IC 7.1-5-7-11(a)(16).

SECTION 18. IC 4-36-5-6, AS ADDED BY P.L.95-2008, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 6. (a) Except as provided in subsection (b), a type II gambling game must pay out at least seventy-five percent (75%) and not more than one hundred percent (100%) of the amount wagered.

(b) This subsection applies only to a type II gambling game ticket that is sold for less than one dollar (\$1). A type II gambling game subject to this subsection must comply with the following minimum payout percentages:

Purchase Price	Minimum Payout Percentage
\$0.10	60%

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1	\$0.25	65%
2	Three (3) tickets for one dollar (\$1)	65%
3	\$0.50	70%

4 (c) A type II gambling game's ~~pay out~~ **payout** percentage must be  
5 stated on the ticket or on the accompanying flare.

6 SECTION 19. IC 4-36-7-4, AS ADDED BY P.L.95-2008,  
7 SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
8 JULY 1, 2009]: Sec. 4. (a) The state police department shall, at the  
9 request of the commission, provide the following:

10 (1) Assistance in obtaining criminal history information relevant  
11 to investigations required for honest, secure, **and** exemplary  
12 operations under this article.

13 (2) Any other assistance requested by the executive director and  
14 agreed to by the superintendent of the state police department.

15 (b) Any other state agency, including the Indiana gaming  
16 commission and the Indiana professional licensing agency, shall upon  
17 request provide the commission with information relevant to an  
18 investigation conducted under this article.

19 SECTION 20. IC 4-36-9-1, AS ADDED BY P.L.95-2008,  
20 SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
21 JULY 1, 2009]: Sec. 1. **(a)** An excise tax is imposed on the distribution  
22 of type II gambling games in the amount of ten percent (10%) of the  
23 price paid by the retailer that purchases the type II gambling games.

24 **(b) The excise tax imposed by this section does not apply to the**  
25 **distribution of tickets used in qualified drawings.**

26 SECTION 21. IC 35-45-5-12, AS ADDED BY P.L.95-2008,  
27 SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
28 JULY 1, 2009]: Sec. 12. This chapter does not apply to the following  
29 gambling games licensed or authorized under IC 4-36:

30 ~~(1) Raffles.~~

31 ~~(2) Winner take all~~ **(1) Qualified** drawings.

32 ~~(3) (2)~~ **(2)** Type II gambling games.

33 SECTION 22. IC 4-36-2-16 IS REPEALED [EFFECTIVE JULY 1,  
34 2009].

35 SECTION 23. **An emergency is declared for this act.**

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## COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Policy, to which was referred House Bill 1286, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Delete the title and insert the following:

A BILL FOR AN ACT to amend the Indiana Code concerning charitable and type II gaming issues.

Page 2, delete lines 8 through 37, begin a new paragraph and insert:

"SECTION 2. IC 4-32.2-2-7.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 7.5. "Bona fide fraternal organization" means a type of bona fide civic organization that:**

- (1) is a branch, lodge, or chapter of a national organization;**
- and**
- (2) exists for the common charitable purposes, brotherhood, or other interests of its members.**

SECTION 3. IC 4-32.2-2-23.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 23.5. "Qualified drawing" means a random drawing to award one (1) or more prizes that is conducted in the manner required by IC 4-36-5-1(c).**

SECTION 4. IC 4-32.2-2-24, AS AMENDED BY P.L.227-2007, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 24. (a) "Qualified organization" ~~means:~~ refers to any of the following:**

- (1) A bona fide religious, educational, senior citizens, veterans, or civic organization operating in Indiana that:**
  - (A) operates without profit to the organization's members;**
  - (B) is exempt from taxation under Section 501 of the Internal Revenue Code; and**
  - (C) satisfies at least one (1) of the following requirements:**
    - (i) The organization has been continuously in existence in Indiana for at least five (5) years. ~~or~~**
    - (ii) The organization is affiliated with a parent organization that has been in existence in Indiana for at least five (5) years.**
    - (iii) The organization has reorganized and is continuing its mission under a new name on file with the Indiana secretary of state and with a new tax identification number after having satisfied the requirements set forth in either item (i) or (ii).**

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(2) A bona fide political organization operating in Indiana that produces exempt function income (as defined in Section 527 of the Internal Revenue Code). ~~or~~

(3) A state educational institution (as defined in ~~IC 20-12-0.5-1~~; **IC 21-7-13-32**).

(b) For purposes of IC 4-32.2-4-3, a "qualified organization" includes the following:

- (1) A hospital licensed under IC 16-21.
- (2) A health facility licensed under IC 16-28.
- (3) A psychiatric facility licensed under IC 12-25.
- (4) An organization defined in subsection (a).

(c) For purposes of IC 4-32.2-4-10, a "qualified organization" includes a bona fide business organization.

**(d) Evidence that an organization satisfies subsection (a)(1)(C)(iii) includes:**

- (1) evidence of the organization's continued use of a service mark or trademarked logo associated with the organization's former name;**
- (2) evidence of the continuity of the organization's activities as shown in the federal income tax returns filed for the organization's five (5) most recent taxable years;**
- (3) evidence of the continuity of the organization's activities as shown by the five (5) most recent annual external financial reviews of the organization prepared by a certified public accountant; or**
- (4) any other information considered sufficient by the commission.**

SECTION 5. IC 4-32.2-4-7.5, AS ADDED BY P.L.227-2007, SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 7.5. (a) ~~Subject to~~ **This section applies only to a qualified organization described in** subsection (h). The commission may issue an annual charity game night license to a qualified organization if:

- (1) the provisions of this section are satisfied; and
- (2) the qualified organization:
  - (A) submits an application; and
  - (B) pays a fee set by the commission under IC 4-32.2-6.

(b) The commission may hold a public hearing to obtain input on the proposed issuance of an annual charity game night license to an applicant that has never held an annual charity game night license under this article.

(c) The first time that a qualified organization applies for an annual

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charity game night license, the qualified organization shall publish notice that the application has been filed by publication at least two (2) times, seven (7) days apart, as follows:

- (1) In one (1) newspaper in the county where the qualified organization is located.
- (2) In one (1) newspaper in the county where the allowable events will be conducted.

(d) The notification required by subsection (c) must contain the following:

- (1) The name of the qualified organization and the fact that it has applied for an annual charity game night license.
- (2) The location where the charity game night events will be held.
- (3) The names of the operator and officers of the qualified organization.
- (4) A statement that any person can protest the proposed issuance of the annual charity game night license.
- (5) A statement that the commission shall hold a public hearing if ten (10) written and signed protest letters are received by the commission.
- (6) The address of the commission where correspondence concerning the application may be sent.

(e) If the commission receives at least ten (10) protest letters, the commission shall hold a public hearing in accordance with IC 5-14-1.5. The commission shall issue a license or deny the application not later than sixty (60) days after the date of the public hearing.

(f) A license issued under this section:

- (1) may authorize the qualified organization to conduct charity game night events on more than one (1) occasion during a period of one (1) year;
- (2) must state the locations of the permitted charity game night events;
- (3) must state the expiration date of the license; and
- (4) may be reissued annually upon the submission of an application for reissuance on the form established by the commission and upon the licensee's payment of a fee set by the commission.

(g) Notwithstanding subsection (f)(4), the commission may hold a public hearing for the reissuance of an annual charity game night license if at least one (1) of the following conditions is met:

- (1) An applicant has been cited for a violation of law or a rule of the commission.
- (2) The commission receives at least ten (10) protest letters

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concerning the qualified organization's charity game night operation.

(3) A public hearing is considered necessary by the commission.

(h) ~~Notwithstanding IC 4-32.2-2-24, this section applies only to: A qualified organization may apply for an annual charity game night license under this section if the qualified organization is:~~

(1) a bona fide ~~civic fraternal~~ organization; or

(2) a bona fide veterans organization;

~~that has been continuously in existence in Indiana for ten (10) years. A qualified organization that is not described in this subsection may not apply for an annual charity game night license under this section.~~

**(i) A facility or location may not be used for purposes of conducting an annual charity game night event on more than three (3) calendar days per calendar week regardless of the number of qualified organizations conducting an annual charity game night event at the facility or location.**

SECTION 6. IC 4-32.2-4-13, AS AMENDED BY P.L.95-2008, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 13. (a) A bingo license or special bingo license may also authorize a qualified organization to conduct raffle events and door prize drawings and sell pull tabs, punchboards, and tip boards at the bingo event.

(b) A charity game night license may also authorize a qualified organization to:

(1) conduct raffle events and door prize drawings; and

(2) sell pull tabs, punchboards, and tip boards;

at the charity game night.

(c) A raffle license or an annual raffle license may also authorize a qualified organization to conduct door prize drawings and sell pull tabs, punchboards, and tip boards at the raffle event.

(d) A door prize license or an annual door prize license may also authorize a qualified organization to conduct a raffle event and to sell pull tabs, punchboards, and tip boards at the door prize event.

(e) A PPT license may also authorize a qualified organization to conduct ~~at any time~~ on the premises described in section 16.5(b) of this chapter ~~a winner take all drawing in which the qualified organization retains no portion of the amounts wagered. The total amount awarded to a patron who participates in a winner take all drawing may not exceed three hundred dollars (\$300).~~ **qualified drawings in the manner required by IC 4-32.2-5-24.**

SECTION 7. IC 4-32.2-5-8, AS AMENDED BY P.L.227-2007, SECTION 33, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

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JULY 1, 2009]: Sec. 8. (a) If ~~facilities are~~ **a facility or location** is leased for an allowable event, the rent may not be based in whole or in part on the revenue generated from the event.

(b) **Subject to the additional restrictions on the use of a facility or location that are set forth in IC 4-32.2-4-7.5(i)**, a facility or location may not be rented for more than three (3) days during a calendar week for an allowable event.

(c) If personal property is leased for an allowable event, the rent may not be based in whole or in part on the revenue generated from the event.

SECTION 8. IC 4-32.2-5-14, AS AMENDED BY P.L.95-2008, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 14. (a) **Except as provided by subsection (c)**, an operator or a worker may not directly or indirectly participate, other than in a capacity as an operator or a worker, in an allowable event that the operator or worker is conducting.

(b) A patron at a charity game night may deal the cards in a card game if:

- (1) the card game in which the patron deals the cards is a game of euchre;
- (2) the patron deals the cards in the manner required in the ordinary course of the game of euchre; and
- (3) the euchre game is played under the supervision of the qualified organization conducting the charity game night in accordance with rules adopted by the commission under IC 4-32.2-3-3.

A patron who deals the cards in a euchre game conducted under this subsection is not considered a worker or an operator for purposes of this article.

(c) **This subsection does not apply to the operator of a festival event. A worker assisting a qualified organization in the conduct of a festival event may make a wager on any game of chance authorized by the qualified organization's festival license except for a game of chance that the worker personally conducts or helps conduct during the festival event.**

SECTION 9. IC 4-32.2-5-24 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 24. (a) **A qualified drawing must be conducted in the manner required by this section.**

(b) **A qualified drawing is subject to the following rules and limitations:**

- (1) **The purchase price for a chance to win a prize in a**

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qualified drawing may not exceed five dollars (\$5).

(2) All tickets that a qualified organization sells in a qualified drawing must have been purchased by the qualified organization from a licensed distributor.

(3) The total value of all prizes that may be won in a particular qualified drawing may not exceed three hundred dollars (\$300) for any of the following:

- (A) A daily drawing.
- (B) A weekly drawing.
- (C) A monthly drawing.

(4) A qualified drawing must be conducted in accordance with the following limitations:

- (A) Not more than one (1) daily drawing may be conducted each day.
- (B) Not more than one (1) weekly drawing may be conducted each week.
- (C) Not more than one (1) monthly drawing may be conducted each month.

A weekly or monthly drawing may be conducted on the same day that a daily drawing is conducted.

(5) Except as otherwise provided in this section, a patron must be present to claim a prize awarded in a qualified drawing.

(6) A qualified organization may not profit from conducting a qualified drawing.

(7) All amounts wagered on qualified drawings must be returned to a qualified organization's patrons in the form of prizes.

(8) A qualified organization may not conduct a qualified drawing or any other event in which the winner of the prize is determined, in whole or in part, by a sporting event.

(9) A qualified drawing must conspicuously display the following information concerning each qualified drawing conducted by the qualified drawing:

- (A) The price of a ticket.
- (B) The time of the drawing.
- (C) The description and value of the prizes awarded in the drawing.
- (D) The manner in which a prize may be claimed.

(c) A prize may be awarded under subsection (d) to a patron who is not present at the time of the qualified drawing if the patron provides the patron's name, address, and telephone number to the qualified organization before the drawing to enable the qualified

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organization to award the prize to the patron at a later time. If the winning patron has not provided the information required by this subsection to the qualified organization before the drawing, the qualified organization must continue drawing tickets in the qualified drawing until there is a winner who:

- (1) is present to claim the prize; or
- (2) has provided the information required by this subsection to enable the qualified organization to award the prize to the patron under subsection (d).

(d) When the winning patron is not present to claim a prize but has provided the information required by subsection (c) to the qualified organization, the qualified organization shall award the prize in the following manner:

- (1) The qualified organization shall immediately notify the winning patron by telephone that the patron's name was drawn in a qualified drawing and that the patron has seventy-two (72) hours after the time of the telephone notification to claim the prize.
- (2) The winning patron must appear at the premises of the qualified organization within seventy-two (72) hours after the time of the notification under subdivision (1) to claim the prize in person.
- (3) The qualified organization shall verify the identity of the winning patron and award the prize.

(e) If a winning patron fails to claim a prize in the manner required by subsection (d), the qualified organization shall carry the prize over to a later qualified drawing as follows:

- (1) An unclaimed prize from a daily drawing must be carried over to the next daily drawing.
- (2) An unclaimed prize from a weekly drawing must be carried over to the next weekly drawing.
- (3) An unclaimed prize from a monthly drawing must be carried over to the next monthly drawing.

SECTION 10. IC 4-32.2-6-0.5, AS ADDED BY P.L.95-2008, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 0.5. As used in this chapter, "gross revenue" does not include any amount wagered on a ~~winner take all~~ qualified drawing conducted by a qualified organization under IC 4-32.2-4-13(e).

SECTION 11. IC 4-32.2-9-9, AS ADDED BY P.L.91-2006, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 9. (a) Information obtained by the commission during the course of an investigation conducted under this chapter is

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confidential.

**(b) A driver's license number or other identifying information of an operator or worker that is submitted to the commission on an application for a license under this article is confidential."**

Page 3, between lines 7 and 8, begin a new paragraph and insert:

"SECTION 14. IC 4-36-4-5, AS ADDED BY P.L.95-2008, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) The commission shall charge the following fees for the issuance of a person's initial annual endorsement or license under this chapter:

- (1) Two hundred fifty dollars (\$250) for a retailer's endorsement to conduct a type II gambling operation in the retailer's tavern.
- (2) One thousand dollars (\$1,000) for a distributor's license.
- (3) One thousand five hundred dollars (\$1,500) for a manufacturer's license.

(b) The commission shall charge the following fees for the renewal of a person's annual endorsement or license under this chapter:

- (1) The amount determined under section 6 of this chapter following amounts for a retailer's endorsement:

**(A) One hundred dollars (\$100) in the case of a retailer that had adjusted gross revenues of less than twenty-five thousand dollars (\$25,000) in the previous year.**

**(B) Two hundred fifty dollars (\$250) in the case of a retailer that had adjusted gross revenues of at least twenty-five thousand dollars (\$25,000) but less than fifty thousand dollars (\$50,000) in the previous year.**

**(C) Five hundred dollars (\$500) in the case of a retailer that had adjusted gross revenues of at least fifty thousand dollars (\$50,000) but less than one hundred thousand dollars (\$100,000) in the previous year.**

**(D) One thousand dollars (\$1,000) in the case of a retailer that had adjusted gross revenues of at least one hundred thousand dollars (\$100,000) in the previous year.**

- (2) One thousand dollars (\$1,000) for a distributor's license.
- (3) One thousand five hundred dollars (\$1,500) for a manufacturer's license.

**(c) A retailer shall report the amount of the retailer's adjusted gross receipts on the form required to renew the retailer's endorsement. The renewal fee required under subsection (b)(1) must be submitted with the renewal form.**

~~(c)~~ **(d)** The commission shall deposit all fees collected under this chapter into the enforcement and administration fund established under

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IC 7.1-4-10."

Page 3, line 10, strike "subsection (c)," and insert "**section 5(b)(1) of this chapter**,".

Page 3, strike lines 27 through 42.

Page 4, strike lines 1 through 11.

Page 7, delete lines 29 through 30, begin a new paragraph and insert:

"SECTION 22. IC 4-36-2-16 IS REPEALED [EFFECTIVE JULY 1, 2009].

SECTION 23. **An emergency is declared for this act.**"

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1286 as introduced.)

VAN HAAFTEN, Chair

Committee Vote: yeas 7, nays 0.

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